

ZONING BOARD OF APPEALS

Tuesday, January 15, 2008
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Alice Howard, Vice Chairman
Fred Money
William Orr
Tom Przytulski
Dan Roszkowski
Craig Sockwell

Absent:

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Kerry Partridge – City Attorney
Frank Schmitt – Chief, Fire Prevention Division
Reid Montgomery – Director, Community Development

Others: Alderman Beach
Alderman Bell
Alderman Wasco
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 7:12 P.M. A **MOTION** was made by William Orr to **APPROVE** the minutes of the December 5 and December 18, 2007 meetings as submitted. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

086-07 5801 Columbia Parkway
Applicant Tim Hansen
Ward 14 **Special Use Permit for a Performance Use** of a drive through window for a fast food restaurant (Pizza Hut) in a C-3, Commercial General Zoning District
Laid Over from October, November, and December meetings

Neither Applicant nor Representative was present. This item had been laid over at the request of the Applicant at the October, November, and December meetings.

A **MOTION** was made by William Orr to **DISMISS** the Special Use Permit for a Performance Use of a drive through window for a fast food restaurant (Pizza Hut) in a C-3, Commercial General Zoning District at 5801 Columbia Parkway. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

106-07 5950 Spring Creek Road
Applicant Erick Jenkins / WFI
Ward 4 **Special Use Permit** for a one hundred fifty-one (151) foot high communication antenna support structure in a R-1, Single-family Residential District
Laid Over from December meeting

Prior to the meeting, a written request was received by the Applicant to Lay Over this item to the February 20th meeting. Mr. Cagnoni explained that the applicant stated the original intention was not to place the antenna support structure as shown on the original plan. A revised site plan with new location was sent to Staff late today and Staff will need time to review.

A **MOTION** was made by Dan Roszkowski to **LAY OVER** the Special Use Permit for a one hundred fifty-one (151) foot high communication antenna support structure in a R-1, Single-family Residential District at 5950 Spring Creek Road. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 6-0.

108-07 **110 South Alpine**
Applicant Atty. Tom Meyer for G.B. Illinois 2, LLC
Ward 14 **Variation** from the required Type C Buffer to a standard perimeter landscape strip along
 Manheim Road in a C-3, Commercial General Zoning District
 Laid Over from December meeting

Prior to the meeting, a written request was received by the Applicant to Lay Over this item to the February 20th meeting.

A **MOTION** was made by Dan Roszkowski to **LAY OVER** the Variation from the required Type C Buffer to a standard perimeter landscape strip along Manheim Road in a C-3, Commercial General Zoning District at 110 South Alpine Road. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 6-0.

118-07 **2222 East State Street**
Applicant Daniel L. Chandler
Ward 2 **Zoning Map Amendment** from C-1, Limited Office Zoning District to C-2, Commercial
 Community Zoning District

The subject property is located south of State, west of Rome Avenue, and east of North Rockford Avenue and is an existing office building. Daniel Chandler, Applicant, reviewed the request. He explained his interest in adding a breakfast/coffee shop as well as a small retail shop within this building for the tenants and neighbors. Mr. Chandler expressed his intent to keep the historic aspect of the building in tact. Anything retail would be a low-key use.

Mr. Cagnoni explained that Staff felt the breakfast / coffee shop and small retail shops would be a good addition to the community. Staff is of the opinion that a Special Use Permit would be more feasible for this venture, as it would allow the Applicant to establish the coffee shop/ breakfast lunch shop and retail use and still maintain the current zoning of C-1, which is more compatible with the surrounding neighborhoods. This would insure that any future use of this building by another owner would remain as C-1 uses. Any changes other than this would require coming back before the Zoning Board. Mr. Chandler stated that he is agreeable to Staff's comments.

Staff Recommendation was for Denial of the Zoning Map Amendment, and Approval of a Special Use Permit for a Planned Mixed-Use Development, with 3 conditions. No Objectors were present

A **MOTION** was made by Dan Roszkowski to **DENY** the Zoning Map Amendment from C-1, Limited Office Zoning District to C-2, Commercial Community Zoning District and to **APPROVE** a Special Use Permit for a breakfast/coffee shop and other retail uses at 2222 East State Street. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable Building and Fire Codes.
2. The subject property must develop according to site plan and landscaping plans dated September 27, 1982.
3. A building elevation plan and illumination plan must be submitted for Staff review and approval.

ZBA 118-07
Findings of Fact for a Zoning Map Amendment
From C-1, Limited Office Zoning District
To C-2, Commercial Community Zoning District at
2222 East State Street

Denial of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is not consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal does not promote the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is not consistent with the comprehensive plan and surrounding uses;
 - b. This proposal does not protect the character, scale and stability of the adjacent residential and commercial because the proposed development will not meet all development requirements of this site; and
 - c. The proposed map amendment would not allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is not consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as CO, Commercial Office.

ZBA 118-07
Findings of Fact for a Special Use Permit
For a Planned Mixed-Use Development
For an Office Center and a Coffee Shop or Breakfast Lunch Spot
In a C-2, Commercial Community Zoning District at
2222 East State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1 Zoning District in which it is located.

119-07

Applicant
Ward 10

3725 East State Street

Gabriel Macias

Special Use Permit for installation of five lighted outdoor palm trees in a C-3,
Commercial General District

The subject property is located on the south side of East State Street and is the San Jose Taqueria Restaurant. Gabriel Macias, Applicant, reviewed his request. He is proposing five, 20 feet high lighted coconut palm trees made out of Polyshell. Mr. Macias added that he really loves palm trees but that they cannot grow in Rockford and he felt these would be very attractive to his business site.

Alderman Frank Beach stated he has been to the State Street restaurant several times and feels the Applicant has beautified the establishment. He is in support of Mr. Macias' request. Alderman Victory Bell also spoke in support of the Applicant. He believes this would be a positive addition to the East State Street corridor. Both Alderman Beach and Alderman Bell pointed out that Mr. Macias also has a restaurant on North Rockton just north of Rockford Memorial Hospital which is also very attractive. Alderman Bell stated Mr. Macias runs a good business, and not only has one business but two without asking for any financial support from the City.

Mr. Sockwell asked how bright the lighted trees would be. Mr. Macias stated the trees are not very bright. Mr. Money felt this proposal would be similar to what would be found in Las Vegas and wondered if this was the image the City wants to project. Alderman Bell responded that the City needs some publicity that is going to promote a different kind of Rockford.

Staff Recommendation was for Denial. No Objectors were present.

Alice Howard felt this proposal was no more distracting than the billboards that turn and flip in every direction already allowed. Dan Roszkowski stated this type of design is not what the City is trying to do with the "Miracle Mile" on State Street. Mr. Orr stated the Applicant was doing quite well with his business without the lighted palm trees and that his food and service were attracting the customers. Dan also felt the site plan with the trees on the sides were more objectionable than those in front. However, he stated that he feels East State Street has enough problems already that the City is trying to improve upon.

A **MOTION** was made by Dan Roszkowski to **DENY** the Special Use Permit for installation of five lighted outdoor palm trees in a C-3, Commercial General District at 3725 East State Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 4-2 with Tom Przytulski and Alice Howard voting Nay.

ZBA 119-07

**Findings of Fact for a Special Use Permit
For Installation of Five Lighted Outdoor Palm Trees
In a C-3, Commercial General District at
3725 East State Street**

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community. The five lighted outdoor palm trees will create a nuisance to motorists traveling on a high traffic Principal Arterial street.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.

3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable sign regulations of the C-3 Zoning District in which it is located.

120-07 **627 and 629 Montague Street**
 Applicant M & M Market & Deli, Inc. / Brenda Martin
 Ward 5 **Special Use Permit for a Planned Mixed Use Development**
 for a store expansion greater than the allowable ten percent (10%) of existing building
 and related parking lot in a C-2, Commercial Community Zoning District

Staff requested that this item be Laid Over to the February 20th meeting.

A **MOTION** was made by Fred Money to **LAY OVER** the Special Use Permit for a Planned Mixed Use Development for a store expansion greater than the allowable ten percent (10%) of existing building and related parking lot in a C-2, Commercial Community Zoning District at 627 and 629 Montague Street. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

121-07 **37XX North Bell School Road**
 Applicant 361 Group Design Services, Inc.
 Ward 4 **Special Use Permit for a Planned Mixed-Use Development** consisting of a retail outlet
 mall, other associated commercial/retail uses, and performances uses, including up to
 three (3) fast food restaurants with drive-up windows and up to two (2) financial
 institutions with drive-up windows and ATMs that cannot satisfy the performance criteria;
 an overflow parking area within a retail lot; a comprehensive sign package with deviations
 from regulations, and a comprehensive landscaping plan with deviations from regulations
 in a C-3, Commercial General District and R-3, Multi-family Residential District

The subject property is located at the northeast quadrant of the City and is vacant land divided into three parcels totaling a little over 52 acres. Jeff Linkenheld, Jim Nutley, and Alderman Carl Wasco were present. Mr. Linkenheld reviewed the requests. The property on the west side of Bell School Road consisting of 11.9 acres was before the Board in October for rezoning from R-3 to C-3. Mr. Linkenheld explained that plans have now been finalized for the remainder of the property. The Applicant's plans include a retail outlet mall 459,446 square feet in size. They have provided two parking lots for overflow parking during busy seasons. Mr. Linkenheld explained that the developers have met with the neighbors to discuss maintaining the intense 50 foot buffer between the development and the residential district to the west of Bell School Road. They are anticipating connecting Bent Creek to the development to the south. The sign package applied for includes a fairly comprehensive interior signage plan. Mr. Linkenheld stated the Applicant has made every attempt to provide as much landscaping on the project as possible. Examples of the rear of the buildings and signage facing the highway were presented. Mr. Linkenheld stated the City has requested the extension of Springwheat Street and they will comply if that is a requirement, although this does not reflect on their development.

Mr. Cagnoni explained that a recent sign ordinance was approved and rewritten as well as an ordinance rewrite that is in the process of approval. This project has been in the making for quite some time, prior to the proposed changes to the Ordinance and sign regulations. He stated the Applicant has stayed consistent along the Bell School Road corridor so that signs will be in regulation of the new sign ordinance of 8' height. Other signs proposed for this project also are in conformance with the new sign

ordinance. Additional building signage has been allowed because of the massive size of the development. The developer was able to get a landscaped entrance into the site which also allows traffic going in and out of the outlet mall to be controlled. There is proposed building foundation landscaping on the portion of the building facing Bell School Road and the main entrance. Bicycle racks have also been incorporated into this development, as part of the revised Ordinance. Mr. Cagnoni stated the Applicant clearly began this project and invested in the development two years ago, and they have been agreeable to and able to cooperate a great deal with the new regulations recently adopted. They are also proposing to provide landscaping between the gaps of the wall between those buildings as seen from the highway.

Mr. Linkenheld further pointed out the proposed 20 foot screen walls to hide delivery trucks, transformers, trash compactors, etc. from the public view. In providing more detail, Mr. Linkenheld stated there will be approximately 105 stores, including restaurants in the food court. Service corridors are on the Bell School Road side, with a screen wall on either side. Any gaps will be finished similar to the outer wall. There will be three main service corridors. Mr. Nutley stated the City has requested that Spring Wheat go through, but feels this is not definite at this time.

Staff Recommendation was for Approval with 8 conditions. Other parties were present.

Donnamaria Boscapomi, 3741 Springwheat Street stated she was representing approximately 50 households in the subdivision to the west. She stated they do not have any objection to the project as it is now presented, but does have a concern with the proposed extension of Springwheat Street. The subdivision is concerned with cut through traffic that would result if this street were extended. She feels keeping this street closed would not have any impact on the proposed development. She explained that streets in their subdivision are designed for internal traffic, being very narrow with no sidewalks. Having the Springwheat extended would jeopardize the families in the residential area. Ms. Boscapomi explained that emergency vehicles to their subdivision come from the east. She expressed appreciation that the developer of this project has taken the time to listen to the neighboring concerns and has been very respectful of their residential needs.

Clyde McClintock, 3576 Springwheat Street stated he is in agreement with Ms. Boscapomi. He further explained there are currently two entrances to their subdivision for emergency vehicles. He also agreed he is in support of this development. Mr. McClintock stated there are no street lights in their subdivision. Walking at night can be dangerous and adding additional traffic caused from people cutting through their subdivision from the proposed development would increase this safety hazard.

Andy Rhead, 13568 Bombay Drive spoke on behalf of Rick Johnson and Rick Nielson to offer support. They own the property to the north and were before the Board previously with plans to develop a restaurant and Hiatt Hotel. Mr. Rhead feels this development will be a great asset to both the City and to making their own project successful.

Alderman Carl Wasco spoke in favor of the project. He stated the developer is favorable to joining the two lots on either side of Springwheat and vacating that area as an easement for sewer and water. He also reiterated there are two entrances to the subdivision. He is in support of the residents and asking to allow the developer to cut off the area at Springwheat rather than extend. Dan Roszkowski asked for clarification of the traffic that is now attempting to cut through. Alderman Wasco stated most of the traffic is small truck traffic that does not realize the street does not go through. He gave examples of other streets that have had traffic increased when they were extended.

Alice asked Staff why the City wanted to open Springwheat. Todd explained the Tentative Plat was approved with a Springwheat / Bell School Road connection. After the meeting between the neighborhood, developer, and Staff, Staff met with Public Works and it was Public Works desire that this connection remain as shown on the Tentative Plat. He explained when this Tentative Plat was approved, the decision was already made on whether Springwheat will go through, so is not part of the vote this evening. He added that the subject could certainly be discussed and comments noted. He further emphasized that both the neighbors and developer were excellent to work with. Chief Schmitt explained that when the Tentative Plan was approved the Fire Department felt it was critical to have the

Springwheat connection due to the narrowness of the streets in the residential development. He agrees that he does not see that this action will create much street traffic. He also pointed out that the City is looking at areas where new Fire Stations would be located, and it very well could be east of the toll road that would service this area. He stated the residential streets are narrow and not lighted and this is not going to change. He is in agreement with Mr. Roszkowski's statement that once someone tries to cut through Springwheat and realizes it goes nowhere, they are not going to do it again.

In response, Alderman Wasco stated he understands the Fire Department's concerns; however, he does feel that there will be cut through traffic from the shopping center.

Mr. Nutley pointed out that the road from the proposed Hiatt hotel was offset so that it would not encourage vehicles to believe Springwheat was a continuation. Alderman Wasco stated this area was originally intended to be residential when the Tentative Plat was approved and although this is a great project for the City, the use has now been changed to commercial.

A **MOTION** was made by William Orr to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a retail outlet mall, other associated commercial/retail uses, and performances uses, including up to three (3) fast food restaurants with drive-up windows and up to two (2) financial institutions with drive-up windows and ATMs that cannot satisfy the performance criteria; an overflow parking area within a retail lot; a comprehensive sign package with deviations from regulations, and a comprehensive landscaping plan with deviations from regulations in a C-3, Commercial General District and R-3, Multi-family Residential District at 37XX North Bell School Road. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. PMUD shall develop with substantial conformance to submitted site plan (Exhibit D) with final review and approval by Staff.
2. Landscaping shall be as per Exhibit E, with final review and approval by staff.
3. Submittal of an illumination (photometrics) plan for staff review and approval.
4. Submittal of a Final Plat for City review and approval.
5. Final size and height of freestanding signs along tollway to be reviewed and approved by Staff.
6. Submittals of sign permit applications for staff review and approval, prior to the installation of signage.
7. Outlot #1 shall comply with stormwater detention requirements and landscaping requirements when developed.
8. Meeting all applicable building and fire codes.

ZBA 121-07

**Findings of Fact for a Special Use Permit for a Planned Mixed-Use Development
Consisting of a Retail Outlet Mall, Other Associated Commercial/Retail Uses
and Performance Uses, Including Up to Three (3) Fast Food Restaurants
With Drive-Up Windows and Up to Two (2) Financial institutions with Drive-Up Windows and ATMs
That Cannot Satisfy the Performance Criteria; an Overflow parking Areas Within a Retail Lot,
A Comprehensive Sign Package with Deviations from Regulations,
And a Comprehensive Landscaping Plan with Deviations from Regulations
In a C-3, Commercial General District and R-3, Multi-Family Residential District at
37XX North Bell School Road**

Approval of this Special Use Permit for a Planned Mixed-Use Development is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

2. The Special Use Permit for a Planned Mixed-Use Development will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use for a Planned Mixed-Use Development will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District and R-3, Multi-family Residential Zoning District in which it is located.

122-07 83XX East State Street

Applicant First Rockford Group

Ward 1 **Variation** to allow a dumpster enclosure within the front yard setback in a C-3, Commercial General District

This property is located on the south side of East State Street, north of Show Place 16. Marvin Keys reviewed the request. He explained that once developed, the subject property will have frontage along East State Street on the northern portion, and also on the southern portion when a future public street is construction. As such, the property would be considered to have two front yards. They are proposing a commercial building for this location. Mr. Keys stated the Applicant feels all 7 standards for hardship are met because this property is considered to have two front yards.

Staff Recommendation was for Approval with 2 conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Variation to allow a dumpster enclosure within the front yard setback in a C-3, Commercial General District at 83XX East State Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The enclosure location must be in accordance with Exhibit E.
2. The enclosure material must be in accordance with Exhibit F.

ZBA 122-07
Findings of Fact for a Variation
To Allow a Dumpster Enclosure within the Front Yard Setback
in a C-3, Commercial General District at
83XX East State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.

123-07 Applicant Ward 1	<u>2601 McFarland Road</u> Eagle Land Development Co. Special Use Permit for a Planned Mixed-Use Development consisting of a restaurant with a drive-up window and a banquet facility in a C-2, Commercial Community District
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The subject property is located at the northeast corner of the intersection of Perry Creek and McFarland Road and is currently vacant farmland. Paul Glendenning, representing the Applicant and Bruce Johnston, Architect, were present. Mr. Glendenning reviewed the application. The Applicant wishes to construct a 17,000 square foot banquet room, dining, bar, lounge with a 1940's theme. Mr. Johnston explained the building is oriented on an angle on the lot, towards Perry Creek. He presented an interior design of the building. The banquet room will open out to a terrace. Restrooms will be located on two sides of the restaurant. The kitchen is furthest away from the intersection. There will be a drive thru area for call in orders. Mr. Glendenning stated parking requirements are met and ample landscaping will be provided. Hours of operation will be from 11 AM to 11 PM Monday through Thursday, and Friday and Saturday to midnight or 1:00 AM. The Applicant is agreeable to Staff conditions.

Mr. Cagnoni explained that the drive-thru window was not an order type situation, but rather a call ahead and pick up. Dan expressed some concern that if enough customers prefer to drive thru rather than walk into the pick up area, there could be a problem with stacking. Mr. Glendenning stated they would review this area to avoid such problems.

Staff Recommendation was for Approval with 7 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a restaurant with a drive-up window and a banquet facility in a C-2, Commercial Community District at 2601 McFarland Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Submittal of a civil site plan for staff review and approval.
2. Submittal of a landscaping plan for staff review and approval.
3. Submittal of an illumination (photometrics) plan for staff review and approval.
4. Submittal of an elevation plan for staff review and approval.
5. Submittal of a Final Plat for City review and approval.
6. Meeting all applicable Building and Fire codes.
7. Alcohol shall not be sold out the drive-thru window.

With no further business to come before the Board, the meeting was adjourned at 8:46 PM.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Community Development Department / Planning & Zoning Division